

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KEVIN GREEN, JULIAN PEREZ, and
NICK CIECHALSKI

Plaintiffs,

v.

Docket No.

CITY OF BUFFALO,
BATTALION CHIEF RONALD K. BOURGEOIS,
COMMISSIONER WILLIAM RENALDO, DEPUTY
COMMISSIONER RAMO SUAREZ and
MAYOR BYRON BROWN

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that defendants City of Buffalo, Battalion Chief Ronald K. Bourgeois, Commissioner William Renaldo, Deputy Commissioner Ramo Suarez, and Mayor Byron Brown, (hereafter “Defendants”) hereby removes this action pursuant to 28 U.S.C. §§1441, and 1446, from the Supreme Court of the State of New York, Erie County, to the United States District Court for the Western District of New York, and respectfully states as follows:

1. Plaintiffs Kevin Green, Julian Perez and Nick Ciechalski (“Plaintiffs”) filed this civil action against defendants in the Supreme Court of the State of New York, Erie County (Index No. 811387/2023), on September 7, 2023. A true and accurate copy of the summons and complaint is attached as **Exhibit 1**, Tab 1.

2. Plaintiffs Kevin Green, Julian Perez and Nick Ciechalski (“Plaintiffs”) filed an Amended Complaint against defendants in the Supreme Court of the State of New York,

Erie County (Index No. 811387/2023), on October 2, 2023. A true and accurate copy of the amended summons and complaint is attached as **Exhibit 1**, Tab 5.

3. Plaintiffs asserts claims for various violations of the Civil Rights Act, 42 U.S.C. § 1983 and the U.S. Constitution, among other claims. *See* Ex. 1, Tab 5, Amended Complaint.

4. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1441, and 1446 because (1) Defendants have satisfied the procedural requirements for removal, and (2) this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1983.

I. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL

5. Plaintiffs commenced this action on September 7, 2023.

6. The summons and complaint were served on Defendants on October 19, 2023.

7. Pursuant to 28 U.S.C. § 1446, Defendants have timely filed this Notice of Removal within 30 days of receipt of the complaint.

8. Venue is proper in this Court because it is the “district and division embracing the place where [this] action is pending.” 28 U.S.C. § 1441(a).

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiff, and a copy is also being filed with the Clerk of the Court for the Supreme Court of the State of New York, Erie County.

10. Defendants have not yet answered or moved against Plaintiff's complaint.

**II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT
MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1441 AND 1983**

11. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1441.

12. Specifically, Plaintiffs assert causes of action arising from Civil Rights Act, 28 U.S.C. § 1983 and the United States Constitution.

III. PROCEDURAL MATTERS

13. Defendants have submitted with this Notice of Removal a completed Civil Cover Sheet and has paid the filing fee.

14. In compliance with Local Rule 81(a)(3), an index of all documents filed or served in the state action, together with such documents tabbed and chronological order, is attached as **Exhibit 1**.

15. A copy of the written notice required by 28 U.S.C. § 1446(d), addressed to Plaintiff's counsel and to the Clerk for the Supreme Court, Erie County, is attached as **Exhibit 2**. It will be filed with that Clerk and, along with this Notice of Removal, will be served on Plaintiffs' counsel.

WHEREFORE, Defendants respectfully removes this action from the Supreme Court of the State of New York, Queens County, pursuant to 28 U.S.C. §§ 1441 and 1446, and respectfully request that this Court assume complete jurisdiction over this action and exclude any further proceedings in state court.

Dated: Buffalo, New York
November 7, 2023

HODGSON RUSS LLP

*Attorneys City of Buffalo, Battalion Chief
Ronald K. Bourgeois, Commissioner William
Renaldo, Deputy Commissioner Ramo Suarez,
and Mayor Byron Brown*

By: /s/Joshua Feinstein

Joshua Feinstein

The Guaranty Building

140 Pearl Street, Suite 100

Buffalo, New York 14202

(716) 856-4000

jfeinstein@hodgsonruss.com

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2023, I caused to be filed defendant's Notice of Removal with the Clerk of the District Court, and I have sent the foregoing, by FedEx overnight delivery, to the following:

Steven M. Cohen
Tiveron Law
2410 North Forrest Road, Ste. 301
Amherst, New York 14068

/s/Joshua Feinstein